

STEVEN BENITO RUSSO, SBN 104858
Chief of Enforcement
DEANNE CANAR, SBN 73933
Senior Commission Counsel
FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 620
Sacramento, CA 95814
Telephone: (916) 322-5660
Facsimile: (916) 322-1932

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY SACRAMENTO

FAIR POLITICAL PRACTICES COMMISSION,)	Case No. 04AS00049
a state agency,)	
)	
Plaintiff,)	
)	STIPULATION FOR ENTRY OF
v.)	JUDGMENT
)	
CRUZ M. BUSTAMANTE, LIEUTENANT)	(IN FAVOR OF PLAINTIFF AGAINST
GOVERNOR BUSTAMANTE 2002)	DEFENDANTS)
COMMITTEE, YES ON BUSTAMANTE, THE)	
CRUZ BUSTAMANTE COMMITTEE AGAINST)	UNLIMITED CIVIL ACTION
PROP. 54, and DOES 1-20 inclusive,)	
)	
)	
Defendants.)	

Plaintiff Fair Political Practices Commission, a state agency, by its attorneys, and Defendants Cruz M. Bustamante, Lieutenant Governor Bustamante 2002 Committee, Yes on Bustamante, and The Cruz Bustamante Committee Against Prop. 54, by their attorneys, enter into this stipulation to resolve the current and potential disputes between them arising out of the course of conduct alleged in the amended complaint for civil penalties filed herewith.

It is stipulated by and between the parties as follows:

The amended complaint on file in this action was properly filed and served on Defendants Cruz M. Bustamante, Lieutenant Governor Bustamante 2002 Committee, Yes on Bustamante, and The Cruz Bustamante Committee Against Prop. 54.

1 Jurisdiction of the subject matter and of the parties to this action and venue are properly in
2 Sacramento Superior Court. The amended complaint states six causes of action, and any defects in the
3 complaint are expressly waived.

4 This stipulation: shall resolve all factual and legal issues pertaining to or arising out of the causes
5 of action stated against Defendants in the amended complaint for civil penalties filed herewith; and
6 additionally shall resolve any and all existing and potential claims under the Political Reform Act
7 against Defendants pertaining to or arising out of the course of conduct described in the amended
8 complaint, including claims for raising, receiving, accepting, and transferring the described
9 contributions, making the described payments, or misreporting the described transactions, contrary to
10 sections 84211, 84301, 84302, 85201, 85301, 85302, 85303, 85306, 85310, 85311, 85316, 85701,
11 85704, and 89510 of the Government Code, in connection with the October 7, 2003 statewide election
12 and the gubernatorial and ballot measure campaigns; and reaches a final disposition with respect to
13 Defendants, without the necessity of holding a civil trial to determine their liability.

14 Defendants Cruz M. Bustamante, Lieutenant Governor Bustamante 2002 Committee, Yes on
15 Bustamante, and The Cruz Bustamante Committee Against Prop. 54 understand, and hereby knowingly
16 and voluntarily waive, any and all procedural rights that they could have exercised if this stipulation had
17 not been entered into, including, but not limited to, their right to civil discovery, to appear personally at
18 any civil trial held in this matter, to confront and cross-examine witnesses, and to have the trial presided
19 over by an impartial judge, and heard and decided by a jury.

20
21 **ENTRY OF JUDGMENT**

22 For the violations of the Political Reform Act admitted herein, Plaintiff Fair Political Practices
23 Commission and Defendants Cruz M. Bustamante, Lieutenant Governor Bustamante 2002 Committee,
24 Yes on Bustamante, and The Cruz Bustamante Committee Against Prop. 54 stipulate that a final
25 judgment be issued and entered in the form of the order attached hereto and made a part hereof as
26 Exhibit "A," in favor of Plaintiff Fair Political Practices Commission, and against Defendants Cruz M.
27 Bustamante, Lieutenant Governor Bustamante 2002 Committee, Yes on Bustamante, and The Cruz
28 Bustamante Committee Against Prop. 54, as follows: in the amount of one hundred eighty-three

1 thousand dollars (\$183,000) against Defendants Cruz M. Bustamante, Lieutenant Governor Bustamante
2 2002 Committee, and Yes on Bustamante, for the first, second, and third causes of action, as set forth in
3 the amended complaint; in the amount of eighty thousand dollars (\$80,000) against Defendant Cruz M.
4 Bustamante, for the fifth and sixth causes of action, as set forth in the amended complaint; for a total
5 civil penalty of two hundred sixty-three thousand dollars (\$263,000). Payment of this amount shall be
6 made by cashier's check, payable to the "General Fund of the State of California," upon the execution of
7 this stipulation.

8 The parties shall each bear their own attorney's fees and costs.

9 It is further stipulated by and between the parties that the fourth cause of action, as set forth in
10 the amended complaint, will be dismissed with prejudice, and that all other claims or causes of action
11 that could have been alleged based on the conduct described in the amended complaint, against
12 Defendants Cruz M. Bustamante, Lieutenant Governor Bustamante 2002 Committee, Yes on
13 Bustamante, and The Cruz Bustamante Committee Against Prop. 54 are precluded.

14 The final judgment may be signed by any judge of the Superior Court of the State of California,
15 for the County of Sacramento, and entered by any clerk upon application of any party without notice.
16

17 **STIPULATED STATEMENT OF LAW AND FACTS**

18 **1. THE PARTIES AND BACKGROUND INFORMATION**

19 **Fair Political Practices Commission**

20 Plaintiff Fair Political Practices Commission (the "FPPC" or the "Commission") is a state
21 agency created by the Political Reform Act of 1974 (the "Act"). (Gov. Code §§ 81000 - 91014.)
22 Plaintiff FPPC has primary responsibility for the impartial, effective administration and implementation
23 of the Act. (Gov. Code § 83111.) Pursuant to Government Code section 91001, subdivision (b),
24 Plaintiff FPPC is the civil prosecutor for matters involving state candidates, state committees, and state
25 election campaigns, and is authorized to maintain this action under Government Code sections 91001,
26 subdivision (b), 91004, 91005, and 91005.5. As Plaintiff FPPC is acting as the civil prosecutor
27 concerning this matter, the judgment herein precludes any other agency, organization, entity, or person
28 from obtaining any further judgment with respect to the violations which were or could have been

1 alleged arising from the conduct described in this action, as provided by Government Code section
2 91008.

3 Cruz M. Bustamante

4 Defendant Cruz M. Bustamante (“Bustamante”) is, and was at all times relevant to this matter,
5 the Lieutenant Governor of the State of California. Defendant Bustamante was also, at all times
6 relevant to this matter, a “candidate,” as defined in Government Code section 82007, for Governor of
7 the State of California. Defendant Bustamante became a candidate for Governor in the statewide special
8 election held on October 7, 2003, on or about August 8, 2003, when he filed a statement of intention
9 with the Secretary of State, declaring his candidacy.

10 Lieutenant Governor Bustamante 2002 Committee

11 Defendant Lieutenant Governor Bustamante 2002 Committee (the “2002 Committee”) was, at all
12 times relevant to this matter, a recipient committee as defined in Government Code section 82013,
13 subdivision (a), and a controlled committee of Defendant Bustamante as that term is defined in
14 Government Code section 82016. Defendant 2002 Committee was established on or about September
15 19, 2001, in conjunction with the re-election of Defendant Bustamante to the office of Lieutenant
16 Governor in the November 5, 2002 statewide election. At all times relevant to this matter, Defendant
17 2002 Committee’s identification number, assigned by the Secretary of State, was 980194.

18 At all times relevant to this matter, Defendant Bustamante was the treasurer of Defendant 2002
19 Committee.

20 Yes on Bustamante

21 Defendant Yes on Bustamante (the “Yes Committee”) was, at all times relevant to this matter, a
22 recipient committee as defined in Government Code section 82013, subdivision (a), and a controlled
23 committee of Defendant Bustamante as that term is defined in Government Code section 82016.
24 Defendant Yes Committee was established on or about August 12, 2003, in conjunction with the
25 candidacy of Defendant Bustamante for election to the office of Governor in the October 7, 2003
26 statewide election. At all times relevant to this matter, Defendant Yes Committee’s identification
27 number, assigned by the Secretary of State, was 1257245.

1 Defendant Bustamante changed the name of Defendant Yes Committee to Friends of Cruz
2 Bustamante, in an amended statement of organization filed with the Secretary of State, on or about
3 December 24, 2003.

4 At all times relevant to this matter, Defendant Bustamante was the treasurer of Defendant Yes
5 Committee.

6 The Cruz Bustamante Committee Against Prop. 54

7 Defendant The Cruz Bustamante Committee Against Prop. 54 (the “Measure Committee”) was,
8 at all times relevant to this matter, a recipient committee as defined in Government Code section 82013,
9 subdivision (a), and a controlled committee of Defendant Bustamante as that term is defined in
10 Government Code section 82016. Defendant Measure Committee was established on or about
11 September 5, 2003, to oppose Proposition 54, a statewide ballot measure, known as the Racial Privacy
12 Initiative, in the October 7, 2003 statewide election. At all times relevant to this matter, Defendant
13 Measure Committee’s identification number, assigned by the Secretary of State, was 1258137.

14 At all times relevant to this matter, Defendant Bustamante was the treasurer of Defendant
15 Measure Committee.

16 2. SUMMARY OF THE LAW

17 “One Bank Account Rule”

18 The Act specifies, at Government Code section 89510, subdivision (b), that all contributions
19 deposited into a campaign bank account are “deemed to be held in trust” for expenses associated with
20 the election of the candidate or for expenses related to holding office.

21 Pursuant to Government Code section 85201, subdivision (c), all contributions for a specific
22 elective office shall be deposited into a campaign bank account established for that elective office, and
23 pursuant to Government Code section 85201, subdivision (e), all expenditures for that specific elective
24 office shall be made from the account.

25 Government Code section 85201, subdivision (a), as implemented by title 2, California Code of
26 Regulations, section 18521, subdivision (a), requires a candidate to establish a separate campaign
27 committee and a separate campaign bank account for each specific elective office sought.

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Government Code section 85201, as implemented by title 2, California Code of Regulations, section 18524, subdivision (a), requires funds in a candidate's campaign bank account to only be spent for expenses related to the specific office sought, or for expenses related to holding that office.

Contribution Limitations

Among the express findings and declarations of the Act is an expression of concern about the increase in the costs of conducting election campaigns, and the disproportionate influence of large contributions over governmental decisions. (Gov. Code § 81001, subdivision (c).) Government Code section 81001, subdivision (d) declares that the influence of large campaign contributions has increased, and that existing laws for the disclosure of campaign receipts and expenditures have been inadequate.

To address these concerns about large contributions and the disproportionate influence that is garnered by large contributors, Proposition 34, which was passed by the voters on November 7, 2000, added new campaign finance provisions to the Act, including campaign contribution limits. Proposition 34 became effective for legislative candidates on January 1, 2001, and for statewide candidates, including gubernatorial candidates, on November 6, 2002. (Section 83, uncodified.)

The Act provides, at Government Code section 89510, subdivision (a), that a candidate for elective state office may only accept contributions within the limits set forth in Chapter 5 of the Act, commencing with Government Code section 85100.

Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for elective state office is required, by Government Code section 85200, to file with the Secretary of State an original statement, signed under penalty of perjury, of his or her intention to be a candidate for a specific office.

At all times relevant to this matter, the limit on any contribution that may be made to, and accepted by, a candidate for Governor from any person or small contributor committee, other than a political party committee, is twenty-one thousand two hundred dollars (\$21,200). (Gov. Code §§ 85301, subd. (c), and 85302, subd. (c); 2 Cal. Code of Regs. § 18545, subd. (a)(3).)

For the purpose of contribution limits, Government Code section 85311, subdivision (d) provides that contributions to state candidates made by an entity that is majority owned by any person shall be aggregated with the contributions of the person who is the majority owner.

1 At all times relevant to this matter, the limit on any payment received by a person who makes a
2 communication that clearly identifies a candidate for elective office, but does not expressly advocate the
3 election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45
4 days of an election is \$25,000, if the communication is made at the behest of the clearly identified
5 candidate. (Gov. Code § 85310, subd. (c).) At all times relevant to this matter, Plaintiff Commission
6 had not adopted a regulation interpreting the statute.

7 At all times relevant to this matter, a contribution for an election may be accepted by a candidate
8 for elective state office after the date of the election only to the extent that the contribution does not
9 exceed net debts outstanding from the election, and the contribution does not otherwise exceed the
10 applicable contribution limits for that election. (Gov. Code § 85316.) Upon becoming operative on or
11 about November 3, 2001, title 2, California Code of Regulations, section 18531.6, implementing
12 Government Code section 85316, provided at subdivision (e) that the prohibition in section 85316
13 against post-election fundraising in excess of net debt did not apply to a candidate for statewide elective
14 office in an election held before November 6, 2002. On January 14, 2004, the Commission amended
15 regulation 18531.6 on an emergency basis, to sunset its provisions on January 23, 2004.

16 At all times relevant to this matter, a candidate may transfer campaign funds from one controlled
17 committee to a controlled committee for elective state office of the same candidate, provided the
18 contributions transferred shall be attributed to specific contributors using a “last in, first out” or first in,
19 last out” accounting method, and the attributed contributions, when aggregated with all other
20 contributions from the same contributor, do not exceed the limits set forth in Government Code section
21 85301 or 85302. (Gov. Code § 85306.) At all times relevant to this matter, title 2, California Code of
22 Regulations, section 18536, implementing Government Code section 85306, provided at subdivision (h)
23 that the requirement in section 85306, that transferred funds be attributed, did not apply to a candidate
24 for statewide elective office, or the candidate’s controlled committee for that office, in an election held
25 before November 6, 2002; however, the requirement nonetheless applied to a candidate for statewide
26 elective office, or the candidate’s controlled committee for that office, in an election held on or after
27 November 6, 2002.

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1 Campaign Disclosure

2 An express purpose of the Act, as set forth in Government Code section 81002, subdivision (a),
3 is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully
4 disclosed to the public, so that voters may be better informed, and so that improper practices may be
5 inhibited. In furtherance of this purpose of disclosure, the Act sets forth a comprehensive campaign
6 reporting system. (Gov. Code § 84200 et seq.)

7 One feature of the campaign reporting system is found at Government Code section 84200.5.
8 Pursuant to Government Code section 84200.5, candidates for elective statewide office being voted
9 upon in a statewide general election, and their controlled committees, are required to file two pre-
10 election statements, disclosing contributions received and expenditures made before the election.

11 Under Government Code section 84215, subdivision (a), statewide elected officers, candidates
12 for statewide elected offices, and their controlled committees are required to file their campaign
13 statements with the Secretary of State, Registrar-Recorder of the County of Los Angeles, and Registrar
14 of Voters of the City and County of San Francisco.

15 Under Government Code section 84605, subdivision (a), any candidate or committee that is
16 required to file campaign statements in connection with a state elective office, that cumulatively receives
17 contributions or makes expenditures totaling fifty thousand dollars (\$50,000) or more, is required to file
18 its campaign statements online or electronically with the Secretary of State, beginning July 1, 2000, for
19 every reporting period thereafter. Additionally, under Government Code section 85309, subdivision (a),
20 a candidate for elective office who is required to file reports pursuant to section 84605 must file online
21 or electronically with the Secretary of State a report disclosing receipt of a contribution of \$1,000 or
22 more received during an election cycle.

23 To further ensure that the express purposes of the Act are achieved, Government Code section
24 84211 prescribes the contents of campaign statements. Government Code section 84211, at subdivisions
25 (a) and (b), requires each campaign statement to contain information regarding the total amount of
26 contributions received during the period covered by the campaign statement and the total amount of
27 cumulative contributions received, and information regarding the total amount of expenditures made

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1 during the period covered by the campaign statement and the total cumulative amount of expenditures
2 made.

3 Government Code section 84211, at subdivisions (c) and (i), requires each campaign statement to
4 contain information regarding the total amount of contributions received during the period covered by
5 the campaign statement from persons who have given a cumulative amount of one hundred dollars
6 (\$100) or more, and information regarding the total amount of expenditures made during the period
7 covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

8 Government Code section 84211, subdivision (f) requires detailed information for contributions
9 of \$100 or more. It provides that if the cumulative amount of contributions received from a person is
10 one hundred dollars (\$100) or more, and a contribution has been received from that person during the
11 period covered by the campaign statement, the statement must disclose identifying information about the
12 contributor, the date and amount of each contribution received from the contributor during the reporting
13 period, and the cumulative amount of the contributor's contributions.

14 Similarly, Government Code section 84211, subdivision (k) requires detailed information for
15 expenditures of \$100 or more. It provides that for each person to whom an expenditure of one hundred
16 dollars (\$100) or more has been made during the period covered by the campaign statement, the
17 statement must disclose identifying information about the payee, the amount of each expenditure, and a
18 brief description of the consideration for which each expenditure was made. For purposes of
19 subdivisions (i), (j), and (k), the term expenditure means any individual payment or accrued expense,
20 unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a
21 single service or product. (Gov. Code § 84211, subdivision (k).)

22 Additionally, Government Code section 84302, as implemented by title 2, California Code of
23 Regulations, section 18532.5, requires a person who qualifies as an intermediary for a contribution to
24 disclose to the recipient of the contribution information regarding both the intermediary and the
25 contributor, and requires the recipient of the contribution to disclose in a campaign statement
26 information regarding both the intermediary and the contributor, if the recipient knows or has reason to
27 know that the contribution was being made through an intermediary.

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1 Under Government Code section 85704, a person may not make any contribution to a committee
2 on the condition, or with the agreement, that it will be contributed to any particular candidate, unless the
3 contribution is fully disclosed pursuant to Government Code section 84302.

4 The Political Reform Act prohibits contributions from being made, directly or indirectly, by any
5 person in a name other than the name by which such person is identified for legal purposes. (Gov. Code
6 § 84301.) Pursuant to Government Code section 85701, any candidate or committee that receives a
7 contribution in violation of Government Code section 84301 is required to pay to the General Fund of
8 the State of California the amount of the contribution.

9 3. CIVIL LIABILITY PROVISIONS

10 Government Code section 91004 provides that any person who intentionally or negligently
11 violates any of the reporting requirements of the Act shall be liable in a civil action in an amount up to
12 the amount(s) not properly reported. Persons who violate Government Code section 84211 are liable in
13 a civil action brought pursuant to Government Code section 91004.

14 Government Code section 91005.5 provides that any person who violates any provision of the
15 Act for which no specific civil penalty is provided, shall be liable in a civil action for an amount up to
16 five thousand dollars (\$5,000) per violation. Persons who violate Government Code sections 85201,
17 85301, and 85302 are liable in a civil action pursuant to Government Code section 91005.5.

18 Pursuant to Government Code sections 81004, subdivision (b) and 84100, as implemented by
19 title 2, California Code of Regulations, section 18427, subdivision (a), it is the duty of a committee's
20 treasurer to ensure that the committee complies with all of the requirements of the Act concerning the
21 receipt and expenditure of funds, and the reporting of such funds. A committee's treasurer may be held
22 jointly and severally liable, along with the committee, for any reporting violations committed by the
23 committee. (Gov. Code § 91006.)

24 4. SUMMARY OF THE FACTS

25 Defendant Lieutenant Governor Bustamante established Defendant 2002 Committee, on or about
26 September 19, 2001, in conjunction with his re-election to the office of Lieutenant Governor in the
27 November 5, 2002 statewide election.

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1 At all times relevant to this matter, Proposition 34's contribution limits did not apply in the
2 November 5, 2002 election, and to contributions made to Defendant 2002 Committee for expenses
3 related to seeking and holding the office of Lieutenant Governor.

4 Defendant 2002 Committee had no debt outstanding following the November 5, 2002 election.

5 Defendants Bustamante and 2002 Committee continued to raise and spend unlimited funds after
6 the November 5, 2002 election.

7 Defendant Bustamante became a candidate for Governor in the statewide special election held on
8 October 7, 2003, on or about August 8, 2003, when he filed a statement of intention with the Secretary
9 of State, declaring his candidacy.

10 Defendant Bustamante established Defendant Yes Committee, on or about August 12, 2003, in
11 conjunction with his candidacy for Governor in the October 7, 2003 election. Defendant Yes
12 Committee qualified as a committee, by receiving contributions in excess of one thousand dollars
13 (\$1,000) from Defendant 2002 Committee, in the form of a wire transfer, in the amount of
14 approximately one hundred thousand dollars (\$100,000).

15 Proposition 34's contribution limits of twenty-one thousand two hundred dollars (\$21,200) per
16 contributor applied in connection with the October 7, 2003 election, and to Defendant Yes Committee.

17 Defendant Bustamante had about a 60-day period, from the date that he announced his candidacy
18 for Governor, to run a campaign against rivals who were independently wealthy. After consulting with
19 private counsel with expertise in the Political Reform Act, and on advice of private counsel, Defendants
20 Bustamante, 2002 Committee, and Yes Committee used Defendant 2002 Committee to raise funds to
21 support the Governor's race, without being constricted by contribution limits. Defendants mistakenly
22 thought that Plaintiff FPPC had expressed the view that their actions were lawful. However, Plaintiff
23 FPPC had not been asked to provide any advice concerning Defendants' actions, and no such advice had
24 been provided prior to those actions being undertaken.

25 Defendants Bustamante, 2002 Committee, and Yes Committee raised money for the Governor's
26 race, in excess of the applicable contribution limits, by depositing contributions into the campaign bank
27 account for Defendant 2002 Committee, reporting the money received by the gubernatorial campaign as
28 contributions to Defendant 2002 Committee instead of as contributions to Defendant Yes Committee,

1 and transferring the money from Defendant 2002 Committee to Defendant Yes Committee, for use in
2 the gubernatorial campaign.

3 In a relatively short period of time, specifically on or about and between August 8 and
4 September 22, 2003, Defendants Bustamante, 2002 Committee, and Yes Committee raised and
5 deposited approximately thirty-nine contributions, totaling approximately \$4 million, into the campaign
6 bank account of Defendant 2002 Committee to support Defendant Bustamante's campaign for
7 Governor.

8 Defendants Bustamante, 2002 Committee, and Yes Committee deposited the above-referenced
9 thirty-nine contributions into the campaign bank account of Defendant 2002 Committee, the bulk of
10 which, totaling approximately \$3.8 million, they transferred, on or about September 2 and 3, 2003, from
11 Defendant 2002 Committee to Defendant Yes Committee, and disbursed, on or about September 2 and
12 3, 2003, to their media buyer for the purchase of television advertising time for Defendant Bustamante's
13 gubernatorial campaign.

14 After questions were raised about the above-referenced transfer of funds, Defendants
15 Bustamante, 2002 Committee, and Yes Committee rescinded the transaction with their media buyer, by
16 requesting a refund of their money, and then transferring the approximately \$3.8 million back to
17 Defendant 2002 Committee.

18 On or about September 5, 2003, Defendant Bustamante established Defendant Measure
19 Committee to oppose a statewide ballot measure, Proposition 54, in the October 7, 2003 statewide
20 election.

21 Defendant Measure Committee qualified as a committee, on or about September 7, 2003, by
22 receiving contributions in excess of one thousand dollars (\$1,000) from the Santa Rosa Rancheria, in the
23 approximate amount of \$478,800, and by receiving approximately \$3.8 million from Defendant 2002
24 Committee, on about September 8, 2003. The funds were disbursed, on or about September 7, 2003, to
25 a media buyer for the purchase of television advertising time opposing Proposition 54.

26 On or about and between September 8, 2003 and October 1, 2003, eight payments in excess of
27 twenty-five thousand dollars (\$25,000) were made by Defendants Bustamante and Measure Committee.

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1 The eight payments, totaling approximately \$5,258,000, were disbursed to a media buyer for the
2 purchase of mass media marketing buys to air two advertisements opposing Proposition 54.

3 Defendant Bustamante appeared in the above-referenced two advertisements. In one of the
4 advertisements, entitled "Together," Defendant Bustamante is identified by name, and speaks against
5 Proposition 54. In the other advertisement, entitled "Prop 54," Defendant Bustamante speaks against
6 Proposition 54, but he is not identified by name, other than in the "paid for" disclosure. Both
7 advertisements were broadcast and or disseminated within 45 days of the October 7, 2003 election.

8 Defendants Bustamante, 2002 Committee, Yes Committee, and Measure Committee publicly
9 reported all of the transactions described in the amended complaint that are the subject of this
10 stipulation, in timely filed campaign reports. However, they reported the transactions incorrectly, as
11 follows: Defendants Bustamante, 2002 Committee, and Yes Committee filed campaign statements in
12 connection with the October 7, 2003 election that over-reported contributions received by Defendant
13 2002 Committee, and under-reported contributions received by Defendant Yes Committee, in the
14 approximate amount of \$4,065,500. Defendants Bustamante, 2002 Committee, and Yes Committee
15 filed campaign statements that over-reported expenditures made and expenses accrued by Defendant
16 2002 Committee, and under-reported expenditures made and expenses accrued by Defendant Yes
17 Committee, in the approximate amount of \$281,338. In addition, Defendants Bustamante and Yes
18 Committee misreported the transfer of funds, approximating \$3.8 million, to Defendant Yes Committee
19 from Defendant 2002 Committee, on September 2 and 3, 2003, as being from specific contributors
20 attributed by Defendant 2002 Committee using the "first in, first out" accounting method, instead of
21 disclosing the actual contributors of the funds.

22 Plaintiff Commission conducted a thorough investigation of the matters alleged in the amended
23 complaint. The investigation concluded with the filing of the amended complaint and the resolution as
24 stated in this stipulated judgment. The violations agreed upon in this stipulation constitute the totality of
25 violations that Plaintiff Commission found to be true in this matter.

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1 A. FIRST CAUSE OF ACTION

2 Defendants Bustamante, 2002 Committee, and Yes Committee solicited contributions from
3 supporters of Defendant Bustamante's candidacy for Governor. Defendants Bustamante, 2002
4 Committee, and Yes Committee received their contributions, and subsequently deposited them into the
5 campaign bank account of Defendant 2002 Committee. Under the Act, funds collected to run for a
6 particular office may only be deposited into one bank account established for election to that office.

7 Approximately thirty-nine contributions were deposited into the campaign bank account of
8 Defendant 2002 Committee with the intent to advance Defendant Bustamante's candidacy for Governor.
9 Those thirty-nine contributions consist of the contributions described in the following chart:

10

	Name of Person Making Contribution	Date Made	Amount of Contribution	Date of Deposit
11	1. Pat Sullivan	08/08/03	\$200	08/12/03
12	2. Sycuan Band of the Kumeyaay Nation	08/21/03	\$300,000	08/23/03
13	3. No. CA Carpenters Regional Council	08/27/03	\$100,000	08/27/03
14	4. AFSCME	08/26/03	\$200,000	08/28/03
15	5. Allstate Insurance Company PAC	08/26/03	\$1,000	08/30/03
16	6. Pechanga Band of Mission Indians	08/27/03	\$500,000	08/29/03
17	7. Operating Engineers Local 3 Dist. 1,2,3 PAC	08/29/03	\$1,900	09/03/03
18	8. Operating Engineers Local 3 Dist. 4 PAC	08/29/03	\$3,850	09/03/03
19	9. Operating Engineers Local 3 Dist. 10 PAC	08/29/03	\$5,000	09/03/03
20	10. Operating Engineers Local 3 Dist. 20 PAC	08/29/03	\$21,200	09/03/03
21	11. Operating Engineers Local 3 Dist. 30 PAC	08/29/03	\$21,200	09/03/03
22	12. Operating Engineers Local 3 Dist. 40 PAC	08/29/03	\$900	09/03/03
23	13. Operating Engineers Local 3 Dist. 50 PAC	08/29/03	\$11,250	09/03/03
24	14. Operating Engineers Local 3 Dist. 60 PAC	08/29/03	\$12,500	09/03/03
25	15. Operating Engineers Local 3 Dist. 70 PAC	08/29/03	\$9,000	09/03/03
26	16. Operating Engineers Local 3 Dist. 80 PAC	08/29/03	\$9,000	09/03/03
27	17. Operating Engineers Local 3 Dist. 90 PAC	08/29/03	\$11,500	09/03/03

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18.	Viejas Tribal Government	09/02/03	\$1,500,000	09/03/03
19.	Southwest Regional Council of Carpenters	09/02/03	\$100,000	09/05/03
20.	Law Offices of Carl E. Douglas	09/02/03	\$2,500	09/05/03
21.	Professional Engineers in CA Government	09/03/03	\$500,000	09/03/03
22.	Professional Engineers in CA Government	09/03/03	\$200,000	09/03/03
23.	Sycuan Band of the Kumeyaay Nation	09/03/03	\$300,000	09/03/03
24.	Smart Solutions, Inc.	09/03/03	\$30,000	09/05/03
25.	Manny M. Aragon, Attorney at Law	09/03/03	\$30,000	09/05/03
26.	Dr. Tobias Duran	09/03/03	\$500	09/05/03
27.	Frank Martinez	09/03/03	\$100	09/05/03
28.	Parra & Gagnon Consulting	09/03/03	\$30,000	09/05/03
29.	Public/Private Projects, Inc.	09/03/03	\$1,000	09/05/03
30.	Brian S. Kabateck, A Professional Law Corp.	09/04/03	\$10,000	09/05/03
31.	Patrick McNicholas	09/04/03	\$12,500	09/05/03
32.	Hermez Moreno	09/04/03	\$1,500	09/05/03
33.	Southeast Law Center, A Professional Corp.	09/04/03	\$1,500	09/05/03
34.	Taylor and Ring, LLP	09/04/03	\$10,000	09/05/03
35.	Verboon, Milstein & Peter, LLP	09/04/03	\$21,200	09/05/03
36.	CA State Council of Laborers PAC	09/09/03	\$80,000	09/09/03
37.	Robert N. Klein II	09/12/03	\$20,000	09/15/03
38.	Robert N. Klein II	09/12/03	\$1,200	09/15/03
39.	Gonzales Construction Company	09/12/03	\$5,000	09/17/03
TOTAL			\$4,065,500	

By intentionally or negligently failing to deposit the above-described contributions for Defendant Bustamante's gubernatorial campaign into the designated campaign bank account of Defendant Yes Committee, Defendants Bustamante, 2002 Committee, and Yes Committee are liable for thirty-nine violations of Government Code section 85201, subdivision (c).

1 B. SECOND CAUSE OF ACTION

2 Defendants Bustamante, 2002 Committee, and Yes Committee made several expenditures for
3 fundraising and other expenses for Defendant Bustamante's gubernatorial campaign by issuing checks
4 from the bank account for Defendant 2002 Committee, instead of out of the bank account for Defendant
5 Yes Committee. Under the Act, funds spent to run for a particular office can only be spent from the
6 campaign bank account established for election to that office.

7 Approximately three expenditures were made from the campaign bank account of Defendant
8 2002 Committee with the intent to advance Defendant Bustamante's candidacy for Governor. Those
9 three expenditures are described in the following chart:

10

	Name of Payee	Date Made	Amount of Expenditure	Purpose of Expenditure
11	1. Olson, Hagel & Fishburn	09/15/03	\$14,595	Legal and Accounting
12	2. Bonner Group, Inc.	09/19/03	\$100,000	Fundraising
13	3. Diana Rogalle	09/19/03	\$4,500	Fundraising
14	TOTAL		\$119,095	

15

16 By intentionally or negligently failing to make the above-described expenditures for Defendant
17 Bustamante's gubernatorial campaign from the designated campaign bank account of Defendant Yes on
18 Bustamante, Defendants Bustamante, 2002 Committee, and Yes Committee are liable for three
19 violations Government Code section 85201, subdivision (e).

20
21 C. THIRD CAUSE OF ACTION

22 In the course of their gubernatorial campaign, Defendants Bustamante, 2002 Committee, and
23 Yes Committee misreported contributions received, expenditures made, and expenses accrued, in
24 connection with Defendant Bustamante's campaign for Governor by reporting these contributions,
25 expenditures, and expenses on the campaign statements of the incorrect committee, as follows:

26 Defendants Bustamante, 2002 Committee, and Yes Committee filed electronic and paper
27 campaign statements and online contribution reports in connection with the October 7, 2003 election
28 that incorrectly reported the above-referenced thirty-nine contributions as contributions to Defendant

2002 Committee, and failed to report those contributions as contributions to Defendant Yes Committee. In the first pre-election campaign statements of Defendants 2002 Committee and Yes Committee, filed on or about August 28, 2003, for the reporting period ending August 23, 2003, and on subsequent amendments, Defendants Bustamante and 2002 Committee over-reported, and Defendants Bustamante and Yes Committee under-reported, the total amount of contributions received during the reporting period in the approximate amount of \$290,150. In the second pre-election campaign statements of Defendants 2002 Committee and Yes Committee, filed on September 25, 2003, for the reporting period ending September 20, 2003, Defendants Bustamante and 2002 Committee over-reported, and Defendants Bustamante and Yes Committee under-reported, the total amount of contributions received during the reporting period in the approximate amount of \$3,770,300.

Defendants Bustamante, 2002 Committee, and Yes Committee filed electronic and paper campaign statements in connection with the October 7, 2003 election that incorrectly reported the above-referenced three expenditures as expenditures made by Defendant 2002 Committee, and failed to report those expenditures as expenditures made by Defendant Yes Committee. In the second pre-election campaign statements of Defendants 2002 Committee and Yes Committee, filed on September 25, 2003, for the reporting period ending September 20, 2003, Defendants Bustamante and 2002 Committee over-reported, and Defendants Bustamante and Yes Committee under-reported, the total amount of expenditures made during the reporting period in the approximate amount of \$119,095.

Defendants Bustamante, 2002 Committee, and Yes Committee filed electronic and paper campaign statements in connection with the October 7, 2003 election that incorrectly reported fundraising and other expenses accrued in connection with Defendant Bustamante's campaign for Governor as expenses accrued by Defendant 2002 Committee, and failed to report those expenses as expenses accrued by Defendant Yes Committee. In the second pre-election campaign statements of Defendants 2002 Committee and Yes Committee, filed on September 25, 2003, for the reporting period ending September 20, 2003, Defendants Bustamante and 2002 Committee over-reported, and Defendants Bustamante and Yes Committee under-reported and failed to disclose the expenses accrued during the reporting period in the approximate amount of \$60,284. In the semi-annual campaign statements of Defendants 2002 Committee and Yes Committee, filed on February 2, 2004, for the

1 reporting period ending December 31, 2003, Defendants Bustamante and 2002 Committee over-
2 reported, and Defendants Bustamante and Yes Committee under-reported and failed to disclose the
3 expenses accrued during the reporting period in the approximate amount of \$162,243.

4 Defendants Bustamante, 2002 Committee, and Yes Committee filed an electronic and paper pre-
5 election campaign statement in connection with the October 7, 2003 election that misreported the
6 transfer of \$3.8 million in funds, occurring on September 2 and 3, 2003, from Defendant 2002
7 Committee to Defendant Yes Committee. In the pre-election campaign statement of Defendant Yes
8 Committee, filed on September 25, 2003, for the reporting period ending September 20, 2003,
9 Defendants Bustamante and Yes Committee failed to report the actual contributors of the funds, and
10 instead attributed the funds to specific contributors, using the “first in, first out” accounting method.

11 By intentionally or negligently failing to disclose, or to properly disclose, the contributions,
12 expenditures, and accrued expenses described above, Defendants Bustamante, 2002 Committee, and Yes
13 Committee are liable for violating Government Code section 84211, subdivisions (c), (f), (i), and (k).

14
15 D. FIFTH CAUSE OF ACTION

16 As Defendant Bustamante was a candidate for Governor for an election occurring during the
17 period January 1, 2003 through December 31, 2004, he was prohibited from accepting from any person,
18 as defined in Government Code section 82047, other than a small contributor committee or political
19 party committee, any contribution that either individually, or in aggregation with other contributions
20 from that same person, totaled more than twenty-one thousand two hundred dollars (\$21,200).

21 In the course of depositing contributions into the campaign bank account for Defendant 2002
22 Committee, that were to support Defendant Bustamante’s gubernatorial campaign, Defendant
23 Bustamante accepted from persons fourteen contributions that were on their face, and in the aggregate,
24 in excess of the limits applicable to a candidate for Governor. Those fourteen contributions consist of
25 the contributions described in the following chart:

26 ///

27 ///

28 ///

	Name of Person Making Contribution	Date Contribution Received or Deposited	Amount of Contribution	Amount Accepted in Excess of Limits (\$21,200)
1.	Sycuan Band of the Kumeyaay Nation	08/23/03	\$21,200	
		08/23/03	\$300,000	\$300,000
2.	AFSCME	08/28/03	\$200,000	\$178,800
3.	Pechanga Band of Mission Indians	08/29/03	\$500,000	\$478,800
4.	Viejas Tribal Government	09/03/03	\$21,200	
		09/03/03	\$1,500,000	\$1,500,000
5.	Southwest Regional Council of Carpenters	08/22/03	\$21,200	
		09/05/03	\$100,000	\$100,000
6.	Professional Engineers in CA	08/29/03	\$21,200	
	Government	09/03/03	\$500,000	\$500,000
7.	Professional Engineers in CA	09/03/03	\$200,000	\$200,000
	Government			
8.	Sycuan Band of the Kumeyaay Nation	09/03/03	\$300,000	\$300,000
9.	Smart Solutions, Inc.	09/05/03	\$30,000	\$8,800
10.	Manny M. Aragon, Attorney at Law	09/05/03	\$30,000	\$8,800
11.	Parra & Gagnon Consulting	09/05/03	\$30,000	\$8,800
12.	Klein Financial Corporation	08/22/03	\$21,200	
	Robert M. Klein II (majority owner of the Klein Financial Corporation)	09/15/03	\$20,000	\$20,000
13.	Robert M. Klein II	09/15/03	\$1,200	\$1,200
14.	Gonzales Construction Company	09/12/03	\$20,000	
		09/17/03	\$5,000	\$3,800
	TOTAL			\$3,609,000

By intentionally or negligently accepting from persons contributions that were made in support of his candidacy for Governor, and that were in excess of the limits applicable to a candidate for

Governor, Defendant Bustamante is liable for fourteen violations of Government Code section 85301, subdivision (c).

E. SIXTH CAUSE OF ACTION

As Defendant Bustamante was a candidate for Governor for an election occurring during the period January 1, 2003 through December 31, 2004, he was prohibited from accepting from any small contributor committee, as defined in Government Code section 85203, any contribution that either individually, or in aggregation with other contributions from that same small contributor committee, totaled more than twenty-one thousand two hundred dollars (\$21,200).

In the course of depositing contributions into the campaign bank account for Defendant 2002 Committee, that were to support Defendant Bustamante's gubernatorial campaign, Defendant Bustamante accepted from two small contributor committees contributions that were on their face, and in the aggregate, in excess of the limits applicable to a candidate for Governor. Those two contributions consist of the contributions described in the following chart:

	Name of Person Making Contribution	Date Contribution Received or Deposited	Amount of Contribution	Amount Accepted in Excess of Limits (\$21,200)
1.	No. CA Carpenters Regional Council	08/19/03	\$21,200	
		08/27/03	\$100,000	\$100,000
2.	CA State Council of Laborers	09/09/03	\$21,200	
		09/09/03	\$80,000	\$80,000
	TOTAL			\$180,000

By intentionally or negligently accepting from small contributor committees contributions that were made in support of his candidacy for Governor, and that were in excess of the limits applicable to a candidate for Governor, Defendant Bustamante is liable for two violations of Government Code section 85302, subdivision (c).

///

CONCLUSION

Judgment shall be entered against Defendants Bustamante, 2002 Committee, and Yes Committee, and in favor of Plaintiff Fair Political Practices Commission, as provided by this stipulation, on causes of action one through three, five and six. The fourth cause of action shall be dismissed with prejudice.

Payment for this civil penalty will originate from the disgorgement of funds raised prior to January 24, 2004, that are held by Defendant 2002 Committee, and either or both of the following sources: funds from Defendant Yes Committee; and funds derived from any payment not made for political purposes that are received by Defendants to settle a bona fide business dispute.

IT IS SO STIPULATED:

Dated: _____

Cruz M. Bustamante, Defendant

Lieutenant Governor Bustamante 2002 Committee, Defendant
Yes on Bustamante, Defendant
Cruz Bustamante Committee Against Prop. 54, Defendant

Dated: _____

By: _____
Cruz M. Bustamante, Treasurer

Dated: _____

James C. Harrison, Remcho, Johansen & Purcell
Attorneys for Defendants

Fair Political Practices Commission, Plaintiff

Dated: _____

By: _____
Mark Krausse, Executive Director

Dated: _____

Deanne Canar, Attorney for Plaintiff
Fair Political Practices Commission